

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF ARKANSAS  
TEXARKANA DIVISION

TROY H. BRADFORD AND GLORIA  
BRADFORD, Individually and as Class  
Representatives on Behalf of All  
Similarly Situated Persons; and  
BOOKS ETC., by and through TROY  
AND GLORIA BRADFORD, Class  
Representatives on Behalf of All Those  
Similarly Situated;

PLAINTIFFS

VS.

NO. 4:05-cv-4075 HFB

UNION PACIFIC RAILROAD COMPANY  
A Delaware Corporation, and J.L. Gordan,  
an Arkansas Resident

DEFENDANTS

**PLAINTIFFS' MOTION TO REMAND  
TO MILLER COUNTY, ARKANSAS**

Plaintiffs hereby submit the following Motion to Remand to Miller County, Arkansas. Plaintiffs file this Motion anticipating that their Motion for Leave to File Second Amended Class Action Complaint will be granted. There is not federal subject matter jurisdiction over the Second Amended Class Action Complaint under 28 U.S.C. § 1332(d)(2)(A), which applies to this case. Specifically:

- (1) In excess of two-thirds of Plaintiffs are citizens of Arkansas, such that 28 U.S.C. §1332(d)(2)(A)(i)(I) applies.
- (2) Plaintiffs seek "significant relief" from a Defendant, Mr. Gordon, whose conduct forms a "significant basis" of Plaintiffs' claims, and who is a citizen of Arkansas. Thus, 28 U.S.C. § 1332(d)(2)(A)(i)(II) applies.

- (3) Principal injuries occurred in Texarkana, Arkansas, meaning that 28 U.S.C. §1332(d)(2)(A)(i)(III) applies.
- (4) During the 3-year period preceding this lawsuit, there has not been any prior lawsuit asserting the same or similar factual allegations as this class action. For the foregoing reasons, Plaintiffs' Motion to Remand must be granted.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that their Motion to Remand to Miller County, Arkansas, be granted; that this cause be remanded to the Circuit Court of Miller County; and for such other and further relief to which they may be justly entitled.

Respectfully Submitted,

**DUNN, NUTTER & MORGAN, L.L.P.**

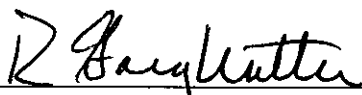
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By:   
**R. Gary Nutter**  
Arkansas Bar No. 71058

**ATTORNEYS FOR PLAINTIFFS**

**CERTIFICATE OF SERVICE**

I, R. Gary Nutter, attorney for Plaintiffs, hereby certify that on the 14<sup>th</sup> day of November, 2005, I electronically filed the foregoing Plaintiffs' Motion to Remand to Miller County, Arkansas with the Clerk of this Court using the CM/ECF system which will send notification of such filing to the following attorneys:

**Attorneys for Defendants:**

George L. McWilliams  
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R. Gary Nutter